

## EXHIBIT 4

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**ORIGINAL**

**REPORTER'S TRANSCRIPT OF AUDIORECORDED PROCEEDINGS**

**INTERVIEW**

**OF**

**DEPUTY JOSHUA PATZER**

**RE: DAY V. CONTRA COSTA COUNTY**

**ADMINISTRATIVE REVIEW 2006-30**

**AUGUST 16, 2006**

**Transcribed by: JOHN A. ZANDONELLA, CSR No. C-795**

1 DEP. PATZER: No.

2 INSP. MULLIGAN: Any military experience?

3 DEP. PATZER: I was in the marine corps for four  
4 years active and four years reserve.

5 INSP. MULLIGAN: And today -- the incident happened  
6 about 1:45 in the morning, what time did you go in to  
7 work last night?

8 DEP. PATZER: I got there about 9:20 for lineup at  
9 9:30.

10 INSP. MULLIGAN: And when was the last time you had  
11 anything to sleep -- had been to sleep?

12 DEP. PATZER: I left work, dayshift, we got off  
13 about 3:10, went to my mother's house in Vallejo and  
14 slept till, about 8:45 the alarm went off.

15 INSP. MULLIGAN: And then you went to work. What  
16 kind of uniform were you wearing?

17 DEP. PATZER: Full sheriff's uniform, short sleeve  
18 shirt, khaki, badge, nameplate, full duty leather, black  
19 boots and tan pants.

20 INSP. MULLIGAN: And then your partner tonight, you  
21 said was Officer --

22 DEP. PATZER: Deputy Boehrer.

23 INSP. MULLIGAN: -- Boehrer. How long have you  
24 guys known each other?

25 DEP. PATZER: We were in the academy together.

1 DEP. PATZER: I fall down to my knees. And he kind  
2 of falls not all the way down but he's like half the  
3 size he is now, kind of --

4 INSP. MULLIGAN: Right.

5 DEP. PATZER: -- scrunched. I lost my light. And  
6 we're kind of three feet inside the gate now when we're  
7 all said and done. I reach down with my left hand to  
8 try to pick up my light 'cause it's pitch black. I  
9 can't see my hand.

10 INSP. MULLIGAN: And the suspect at that time, you  
11 said he was partially down. Does it sound like he's  
12 crouching, or is he just responding to the --

13 DEP. PATZER: Responding to the fall, trying to  
14 catch himself. As I'm reaching for the flashlight and  
15 holding his shirt, he starts to stand up. So I start to  
16 come up, and next thing I know I got hit and my hand  
17 kind of pulled him further in front of me.

18 INSP. MULLIGAN: And what did you get hit with?

19 DEP. PATZER: I can't, I didn't see what it was.

20 INSP. MULLIGAN: Where did you get hit?

21 DEP. PATZER: In the head area.

22 DETECTIVE: Did it feel like a fist?

23 DEP. PATZER: It felt like a solid box or punch,  
24 but I can't be sure 'cause I couldn't see anything. And  
25 I was looking for a light and still trying to hold him.

1 He had put me back on my heels.

2 INSP. MULLIGAN: And you get hit on -- you're  
3 pointing to the left side of your head?

4 DEP. PATZER: Yeah.

5 INSP. MULLIGAN: And you think it was the suspect  
6 who hit you, do you think you might have banged your  
7 head on the --

8 DEP. PATZER: No, I think he hit me, 'cause next  
9 thing I knew when I let go and then I went to grab him  
10 again, he was facing me at that point and pushing me  
11 back.

12 INSP. MULLIGAN: So he hits you in the head. You  
13 can feel obviously, it sounds like it's a solid fist.  
14 And now he's facing you?

15 DEP. PATZER: Yeah. Well, I grabbed the shirt,  
16 thinking he might be -- after he hit me, I thought he  
17 would run. So trying to prevent him from fleeing, I  
18 thought I was grabbing the back of him. Once I grabbed  
19 on to him, I could feel his arms facing me, swinging at  
20 me. So I brought my shoulders up.

21 DETECTIVE: So he's still swinging punches at you.

22 DEP. PATZER: Yeah, and pushing me back into the  
23 garbage pile of stuff.

24 DETECTIVE: Is he pretty strong?

25 DEP. PATZER: Yeah, he felt like -- as we were

1           INSP. MULLIGAN: So you guys are still on your  
 2 feet, though.

3           DEP. PATZER: I'm starting to lose my footing on  
 4 the rubble and the plastic stuff back there.

5           I stand up and we're face to face again. And at  
 6 this point he comes at me again in a fighting stance,  
 7 keeps aggressing towards me. So I go to push him back  
 8 and I slip again. And my arm goes down into this pile  
 9 of rubble.

10          And finally I get my footing enough to where I just  
 11 push him with all I have to get him away from me. I  
 12 don't grab him. I just make a fist and put my left arm  
 13 up right to his midsection, push him away.

14          And as I do that, I start to stand up, take a step  
 15 back, put my hand on my pistol. And that's when  
 16 something hits me from behind. And he grabs, comes at  
 17 me again. I pull out my pistol. I grab to hold onto  
 18 him and I fire one round.

19          And then I can feel that there's no pressure on my  
 20 hand anymore. He's basically gone.

21          I can see where the, my illumination from my  
 22 flashlight. I moved the plastic bag that's on it and  
 23 grab it, try to see who's behind me. And there's an air  
 24 conditioner in the window, and I'm assuming that's what  
 25 I hit.

1 too.

2 DEP. PATZER: I couldn't see anything. My feet  
3 never had a firm setting on anything back there.

4 When I finally did get the light, I had to move a  
5 bike and like eight bags just to let people through the  
6 gate that we fell through.

7 DETECTIVE: Had all kinds of garbage and junk out  
8 there?

9 DEP. PATZER: I know I moved a slide and a bike and  
10 a bunch of garbage bags.

11 DETECTIVE: Okay.

12 DEP. PATZER: Yeah.

13 INSP. MULLIGAN: Now, when the shooting -- let's  
14 just try to freeze frame that -- are you on your,  
15 standing up, or are you actually down so you're in a  
16 crouching position? What would be the best way to  
17 describe that?

18 DEP. PATZER: I was crouching. I felt something  
19 from behind so I ducked down thinking if they're gonna  
20 hit me they're gonna swing high, 'cause they can't see  
21 either.

22 And I pulled out my weapon and I was crouched like  
23 this. And he came back at me, and I fired one shot.

24 DETECTIVE: Crouched, were you still on one knee or  
25 just bent down?

1 DEP. PATZER: Yeah. No, he -- I pulled my gun out  
 2 to retention and held it in tight, 'cause the last I  
 3 felt he wasn't far enough away from me to put my arms  
 4 out, 'cause I'd still have to push him away.

5 As soon as I got my gun here, he comes at me again  
 6 and I start to lose balance again. And I fire one shot  
 7 and then the pressure's off my arm.

8 DETECTIVE: So he's driving you backwards as the  
 9 round goes off?

10 DEP. PATZER: As I go off, he's still pushing me  
 11 back. I'm not like falling over tilting, but I'm having  
 12 to walk backwards.

13 Then I fire one round basically point shooting at  
 14 center silhouette, whatever I have and he -- there's no  
 15 pressure there.

16 I look around to see who's behind me. I can't see  
 17 anything but I see the light.

18 INSP. MULLIGAN: Okay.

19 DEP. PATZER: So I pick the garbage bag up. I can  
 20 see, grab the light. I see the air conditioning. And  
 21 then I see him on the ground.

22 INSP. MULLIGAN: And the lighting there, except for  
 23 your flashlight, so -- we're assuming that when you're  
 24 going towards the suspect, you're going in a northbound  
 25 direction pretty much, would that be safe to say? And

1 Sheriff's Office, stop resisting.

2 INSP. MULLIGAN: Okay. And did you do that during  
3 this one, do you recall?

4 DEP. PATZER: Yes.

5 INSP. MULLIGAN: Okay. Any idea how many times you  
6 told him that?

7 DEP. PATZER: I don't know exactly. I'd say about  
8 five.

9 INSP. MULLIGAN: Okay. And he continued to advance  
10 on you and continued to struggle?

11 DEP. PATZER: Yes.

12 INSP. MULLIGAN: And the way you described your  
13 encounter with him, it sounds like he probably punched  
14 you in the head once. Were there any other blows that  
15 you're aware of, or was it pretty much him pushing you  
16 away, trying to advance on you?

17 DEP. PATZER: There was no other punches that were  
18 quite as solid, straight --

19 INSP. MULLIGAN: Right.

20 DEP. PATZER: -- hits. The rest were kind of like  
21 glances. He was just swinging at me, and I was able to  
22 duck and move, so they were just like glancing blows. I  
23 could feel his arms skipping by my head. But they, none  
24 of them connected like the first one.

25 INSP. MULLIGAN: And then immediately after the

1 STATE OF CALIFORNIA )  
2 ) ss.  
COUNTY OF CONTRA COSTA )

3  
4 I, JOHN A. ZANDONELLA, do hereby certify:

5 That I am a Certified Shorthand Reporter of the  
6 State of California, License No. C-795;

7 That the foregoing pages, 2 through 42, are a true  
8 and correct transcription of the audiorecorded  
9 proceedings furnished to me by the Law Offices of  
10 Casper, Meadows & Schwartz, except where noted  
11 "unintelligible" or "inaudible."

12 I further certify that I am not interested in the  
13 outcome of said matter nor connected with or related to  
14 any of the parties of said matter or to their respective  
15 counsel.

16 Dated this 18th day of April, 2008, at Concord,  
17 California.

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21 JOHN A. ZANDONELLA, CSR No. C-795  
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